

Roland Fox

Connecticut v Congo

30th November 2006

1	it's -- that's where the number comes from.	03:30:16
2	Q. And the NS Concept was the vessel that picked	03:30:20
3	up this lifting?	03:30:27
4	A. That would appear to be the case, yes.	03:30:30
5	Q. How soon before a vessel docks does CMS have	03:30:32
6	notice that a vessel is coming?	03:30:39
7	A. SNPC is, under the terms of the amendment to	03:30:41
8	the lifting agreement, obliged to give 25 days' notice to	03:30:44
9	say that a -- that it wishes to take a lifting. It	03:30:48
10	nominates the vessel; and then, I believe, there's	03:30:53
11	a notification shortly beforehand to say when the vessel	03:30:59
12	will arrive.	03:31:04
13	Q. And I'm just going to mark this as Exhibit 14.	03:31:32
14	(Exhibit 14 marked for identification)	03:31:36
15	A. Thank you.	03:31:51
16	Q. Mr. Fox, this is the statistics	03:31:55
17	for October 2006. It's the same --	03:31:59
18	A. Yes.	03:32:03
19	Q. -- type of document that we just walked	03:32:03
20	through; correct?	03:32:06
21	A. Hmm, hmm.	03:32:07
22	Q. And this reflects that just last month's	03:32:08
23	production, October 2006; correct?	03:32:10
24	A. Yes.	03:32:13
25	Q. Now, who -- who receives -- who receives these	03:32:14

Roland Fox

Connecticut v Congo

30th November 2006

1	documents?	03:32:17
2	A. It's sent to the Government. I -- actually,	03:32:18
3	when I say it's sent to the Government I suspect --	03:32:22
4	I believe it's sent to SNPC, not to the Government at all,	03:32:26
5	or maybe it is sent to both.	03:32:29
6	Q. On the 05 one it is sent to the Government?	03:32:37
7	A. I mean, it could be it's sent to both.	03:32:41
8	Q. Let's just finish off going through 05, the 05	03:32:50
9	one --	03:32:56
10	A. Actually, I think it's clear because it is	03:32:56
11	copied to the SNPC at the bottom. So this must be sent to	03:32:59
12	the Government.	03:33:02
13	Q. Okay. Okay. After the over/under page, which	03:33:03
14	is 1579, then we get to 1580?	03:33:09
15	A. Sorry, where?	03:33:13
16	Q. On document 13 --	03:33:15
17	MR. LIPE: He's gone back to 13.	03:33:18
18	Q. I just want to follow up on 13 and finish it	03:33:20
19	off for us.	03:33:23
20	A. Okay.	03:33:24
21	Q. The -- 1580. What is the production? The	03:33:36
22	production reference of September 2005, that's the metric	03:33:40
23	tons that --	03:33:45
24	A. Yes, yeah.	03:33:46
25	Q. That were produced that month?	03:33:47

Roland Fox

Connecticut v Congo

30th November 2006

1	A. Correct.	03:33:49
2	Q. And then the next column; what is that	03:33:50
3	representing?	03:33:58
4	A. That's sales during the month.	03:33:59
5	Q. Okay. And then the "Redevance"?	03:34:01
6	A. Royalty .	03:34:09
7	Q. And that's calculated in dollars per each	03:34:11
8	working interest owner; correct?	03:34:15
9	A. Correct.	03:34:18
10	Q. So this is the breakout that we were	03:34:24
11	struggling with earlier that leads to the 3.575 million and	03:34:26
12	change calculation --	03:34:32
13	A. Yes.	03:34:33
14	Q. -- which is then translated into barrels of	03:34:33
15	oil based upon the market price; correct?	03:34:36
16	A. Correct.	03:34:38
17	Q. And then the next page, which is 1581, is	03:35:01
18	this -- what is this reporting?	03:35:14
19	A. There are certain costs that are allowed to be	03:35:19
20	deducted before you make the calculation of the royalty,	03:35:23
21	again governed by Article 7 of the Convention. Internal	03:35:26
22	transport, as you can see, has got a zero figure. There are	03:35:33
23	other costs related there that you are entitled to take into	03:35:37
24	account before you start making your calculation; and those	03:35:40
25	are -- those are the costs that are associated.	03:35:44

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Connecticut v Congo

30th November 2006

1	Q. Costs associated with deductions prior to	03:35:50
2	calculating the royalty?	03:35:53
3	A. Yes. These are costs which the Convention	03:35:55
4	allows you to deduct before you make your royalty	03:35:56
5	calculation.	03:36:00
6	Q. But that doesn't include the maritime tax	03:36:01
7	off-set or the off-set for the production costs?	03:36:03
8	A. The lifting costs.	03:36:07
9	Q. The operating costs?	03:36:08
10	A. The lifting costs.	03:36:09
11	Q. The lifting costs?	03:36:10
12	A. Yes.	03:36:12
13	Q. Okay. Those are represented elsewhere or	03:36:12
14	they're --	03:36:15
15	A. They're, as we've seen already, in that	03:36:16
16	document, in that statement.	03:36:18
17	Q. In the over/under lift?	03:36:21
18	A. Yes.	03:36:23
19	Q. And then 1582. Tell me what this is	03:36:23
20	reporting.	03:36:30
21	A. This is talking about the -- it's -- the total	03:36:31
22	volume of oil exported is the 91 million -- 91,000 tons with	03:36:37
23	a value of \$30 million. The share -- the work --	03:36:44
24	entitlement share of CMS being 25% is the \$7 million, which	03:36:55
25	would be a quarter of the 30.	03:37:03

Roland Fox

Connecticut v Congo

30th November 2006

1 Q. Hmm, hmm. 03:37:10

2 A. The 654 is the cost, which we've already 03:37:10
3 discussed on the previous page, which are deductible before 03:37:15
4 you calculate the royalty. So that's its share of that 03:37:21
5 number. So, basically, 654 is 25% of the number calculated 03:37:26
6 on the previous page, the 1,668. 03:37:32

7 Q. And then? 03:37:35

8 A. And that gives you the basis on which you 03:37:36
9 calculate the royalty delivery for the Government. And it 03:37:38
10 goes on then to talk about the fact that CMS has to pay to 03:37:43
11 a royalty of 14.5%; and also refers to the fact that the 03:37:49
12 SNPC royalty is also a responsibility of the other working 03:37:55
13 interest owners, as provided for in the JOA. 03:37:59

14 Now, as SNPC has a 14.5% royalty the two numbers 03:38:04
15 work out the same. 03:38:11

16 Q. Under the JOA the other working interest 03:38:12
17 owners are responsible for SNPC's portion of the royalty? 03:38:14

18 A. Correct. 03:38:18

19 Q. Okay. And then -- 03:38:19

20 A. And so the second -- the second number is 50% 03:38:23
21 of the share of SNPC. 03:38:28

22 Q. You say the second number, what are you 03:38:34
23 referring to? 03:38:37

24 A. Where it talks about -- where there are two 03:38:37
25 numbers which are the same, 1,013,000. 03:38:43

Roland Fox

Connecticut v Congo

30th November 2006

1 Q. Hmm, hmm. 03:38:47

2 A. Now, the first one relates to CMS land the 03:38:48

3 second one relates to the CMS's responsibility in respect of 03:38:50

4 SNPC. The reason that those two numbers are the same is 03:38:54

5 that CMS and SNPC both pay 14.5%. CMS is obliged to pay 50% 03:38:58

6 proportionately, obviously; and the other parties are 03:39:04

7 obliged -- the Nuevo parties pay 50% of the SNPC share. 03:39:04

8 Q. That's how we get the same number? 03:39:09

9 A. The same number, yeah. 03:39:11

10 Q. And, then, the total to the -- is that? 03:39:13

11 A. That's the total royalty that -- the total 03:39:15

12 computation of the royalty is the 1.7 million. 85% of that 03:39:17

13 is the initial figure that appears in the documentation; and 03:39:22

14 then the final 15% gets sorted out -- again, as we've 03:39:26

15 discussed, earlier in that quarterly adjustment. 03:39:31

16 Q. On the true up each quarter? 03:39:35

17 A. Yeah. And then the numbers at the bottom are 03:39:37

18 basically the 1.7 each -- CMS's share and the SNPC share of 03:39:40

19 the royalty. 03:39:45

20 Q. And the reason why it's not the 3 million 03:39:50

21 number is because it doesn't take into account -- 03:39:52

22 A. The Nuevo. 03:39:56

23 Q. The Nuevo and the Nomeco. 03:39:58

24 A. Exactly -- no, the two Nuevo companies. 03:39:59

25 Q. I'm sorry. That's right. Thank you. And all 03:40:06

Roland Fox

Connecticut v Congo

30th November 2006

1	of these calculations are done in dollars?	03:40:13
2	A. Yes.	03:40:17
3	Q. And the detail -- then there's a line and the	03:40:22
4	detail of the royalty to the payer on the same page 1582?	03:40:30
5	A. Sorry, where are you looking at?	03:40:36
6	Q. The detail.	03:40:38
7	A. Yes. So what that's saying is you go back-up	03:40:39
8	to the number above which is the total royalty, which is the	03:40:41
9	1.7. The CMS responsibility or the CMS -- the royalty that	03:40:44
10	applies in respect of the CMS entitlement interest is the	03:40:50
11	first figure; and the amount that CMS is responsible for	03:40:56
12	under the terms of the JOA regarding the SNPC royalty	03:41:00
13	obligation is the second element.	03:41:05
14	Q. Okay. What is page 1583, detail?	03:41:08
15	A. It's exactly the same for Nuevo Congo.	03:41:20
16	Q. It is just the Nuevo Congo calculation?	03:41:24
17	A. Yes.	03:41:27
18	Q. And then the next page is --	03:41:28
19	A. The other Nuevo company.	03:41:32
20	Q. The Nuevo Congo Limited calculation?	03:41:36
21	A. Yes.	03:41:39
22	Q. Both of these pages are just reflecting their	03:41:40
23	share of the royalty due to the Congo?	03:41:44
24	A. It's reflecting -- it's their share of the	03:41:46
25	computation of the royalty that ultimately is taken by the	03:41:48

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Connecticut v Congo

30th November 2006

1	Congo at the time of the next SNPC lifting.	03:41:51
2	Q. And the very last page of this is the	03:41:59
3	calculation for SNPC?	03:42:00
4	A. Exactly the same process for SNPC.	03:42:02
5	Q. Thank you for that. How you doing? Do you	03:42:16
6	want to keep marching on or you want to take a break?	03:42:19
7	A. I'm okay for the time being. At some stage	03:42:23
8	I will want to go to the loo, but I'll wait for a bit	03:42:26
9	longer.	03:42:29
10	MR. LIPE: If you want to finish. Maybe we can	03:42:30
11	finish 14. Or you think you don't need to go through 14?	03:42:32
12	MR. KAPLAN: I think that after his explanation on	03:42:38
13	how the -- the calculation on 14 is the same calculation	03:42:40
14	it's just for a different -- it's just for last month's	03:42:42
15	production.	03:42:46
16	A. Exactly, yes.	03:42:48
17	Q. Have there been any changes in the way CMS	03:42:48
18	does its calculations from October 2005 to 2006?	03:42:52
19	A. No. If you follow the same process for this	03:42:56
20	other document you will reach the same conclusions.	03:43:02
21	Q. The over/under sheet looks -- I just want to	03:43:07
22	go to the over/under check which is at 17 --	03:43:10
23	A. Are we on Exhibit 13?	03:43:17
24	Q. 14 now.	03:43:21
25	A. 13 or 14?	03:43:22

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Connecticut v Congo

30th November 2006

1	Q. 14.	03:43:24
2	A. Right.	03:43:24
3	Q. So this does not have an estimate for when the	03:43:25
4	next SNPC lifting -- 137 is the last lifting referenced	03:43:28
5	here.	03:43:35
6	A. I -- I think -- let's have a look. No, it	03:43:36
7	does. You'll see that on the right-hand side if you look at	03:43:42
8	the 174,995.	03:43:49
9	Q. Aha.	03:43:51
10	A. That is the Government -- you see 206,411 at	03:43:52
11	the bottom?	03:43:56
12	Q. Yes.	03:43:58
13	A. That is the amount that ultimately will be	03:43:58
14	taken by the Government by way of royalty. You deduct from	03:44:04
15	that the SNPC over lift, which is the 31,000. And so the	03:44:09
16	number on the right-hand side, the 174, shows that the date	03:44:18
17	this document was produced, which is the 13th -- 13th	03:44:21
18	of November, the Government and SNPC together had not yet	03:44:25
19	reached the 275 figure; but as of now, as I'm told by	03:44:31
20	Mr. Faillenot they have, so -- which is why they will take	03:44:45
21	the next lifting.	03:44:49
22	Q. If you look at 1726 of Exhibit 14 and	03:45:40
23	page 1582 of Exhibit 13. I'm sorry, I was -- I'm sorry,	03:45:46
24	apples with oranges?	03:45:56
25	A. Yeah.	03:46:00

Roland Fox

Connecticut v Congo

30th November 2006

1	MR. KAPLAN: Okay. I'm done with those two	03:46:30
2	documents, so if you want to take the break now.	03:46:32
3	MR. LIPE: Sure, that's fine.	03:46:39
4	A. Okay.	03:46:41
5	(3:46 p.m.)	03:46:42
6	(Short Break)	03:46:47
7	(3:53 p.m.)	03:53:04
8	Q. I have a series of the documents that we've	03:53:06
9	just been looking at that I'm just going to look with you	03:53:09
10	briefly. You don't need to go through all the calculations	03:53:14
11	again.	03:53:16
12	A. Right.	03:53:17
13	Q. The first one I'm handing you is what's	03:53:18
14	Exhibit 15.	03:53:21
15	(Exhibit 15 marked for identification)	03:53:30
16	Q. This is the statistics for September 2005;	03:53:30
17	correct?	03:53:33
18	A. Yes.	03:53:34
19	Q. And this shows that there was, in that month,	03:53:34
20	49,960 barrels of royalty oil accumulated?	03:53:41
21	A. Computed, yes. It's -- this was the royalty	03:53:47
22	oil computed on the lifting that took place on the --	03:53:52
23	in August, I think.	03:54:02
24	Q. On the lifting that took place in when,	03:54:05
25	I'm sorry?	03:54:07

Roland Fox

Connecticut v Congo

30th November 2006

1	A. It looks like it's the -- in August -- have	03:54:08
2	you -- have you got the previous statement --	03:54:11
3	Q. I don't.	03:54:17
4	A. -- for the month of August 2005 --	03:54:19
5	Q. But if we go to the over/under sheet --	03:54:22
6	A. Yes, this -- what it says there is	03:54:25
7	2 million barrels -- actually, yes if you've got the	03:54:27
8	over/under sheet that would be easier. There was an --	03:54:31
9	Q. Well, it's -- you were saying what is -- it	03:54:37
10	says after "Messieurs" we have -- what do we have?	03:54:41
11	A. "We have the pleasure to transmit to you the	03:54:44
12	following statistics: commercialised production", as we've	03:54:47
13	explained 258,000 barrels; volume lifted	03:54:52
14	in September 605,000 barrels, royalty \$2 million being X	03:54:56
15	number of barrels royalty relating to the month	03:55:15
16	of August 2005.	03:55:19
17	Q. And you say that that represents the	03:55:26
18	computation of the royalty?	03:55:28
19	A. Yes. Yeah. Yes.	03:55:30
20	Q. Does Congo -- does Congo -- have you talked to	03:55:32
21	Congo about providing these statistics to them? Has CMS	03:55:40
22	talked to Congo about providing these statistics to them?	03:55:43
23	A. I have no idea whether there have been any	03:55:46
24	discussions on it, but it is the form that has been used for	03:55:50
25	many years and is obviously acceptable to both CMS and the	03:55:55